

FROM THE PLANNING COMMISSION MINUTES OF FEBRUARY 26, 2015

Agenda Items

4. 15-0044 Hearing to consider a request to allow nine events with up to 150 attendees and wine tasting at an existing winery [Special Use Permit Revision S08-0012-R/Rancho Olivo Vineyards]** on property identified by Assessor's Parcel Number 109-090-07, consisting of 21 acres, in the Cameron Park area, submitted by Nello and Danica Olivo; and staff recommending the Planning Commission take the following actions:

- 1) Find that the project is Categorical Exempt pursuant to CEQA Sections 15301 and 15303; and
 - 2) Approve Special Use Permit Revision S08-0012-R based on the Findings and subject to the Conditions of Approval as presented.
- (Supervisory District 2) (Cont. 01-22-15, Item 5)

Commissioner Miller recused himself due to the location of his personal property to the project and left the room.

Aaron Mount presented the item to the Commission with a recommendation for approval. He referenced the Staff Memo dated February 23, 2015 regarding a correction to the Staff Report on the project's location regarding the Cameron Estates CSD. Mr. Mount also recommended the deletion of Condition 9 as it was not enforceable by the County.

Danica Olivo, applicant, made the following comments:

- Love the area and the neighbors;
- Opposition is imagining a huge impact, but feels that no one will even notice what they are doing;
- In 2013, they allowed some friends to be married at their site and they were taken advantage of and regret it;
- The only event they had in 2014 was a BBQ;
- Love to do things for the community;
- People have stated they moved to the area because they were there;
- Read and submitted for the record a Fact Sheet; and
- Operated the Sequoia Restaurant in Placerville for 10 years under a Special Use Permit and they never violated it.

Nello Olivo made the following comments:

- Moved there in 1999;
- Those opposed to this are the same ones that attended their events;
- In 2013, they started events innocently, but stopped them when notified by Planning that they were in violation of their Special Use Permit;
- Admitted that because the events were weddings and invitations had already been sent out, he was unable to stop the events until July;
- The 3 Temporary Use Permits received in 2013 were for Wine Club events;

- Land has always been commercial;
- Events were started to bring the community together;
- Doesn't want the neighbors to be angry but not sure what else they can do;
- Still keeping other tasting room;
- This is primarily a vineyard;
- Although commercial property, it is by invitation only;
- There is no signage in the neighborhood for their establishment; and
- Authors of letters are against them and are trying to find a way to remove them.

Doug Noble made the following comments:

- Formerly an El Dorado County Planner and Planning Commissioner;
- Has known applicants for many years;
- Events are well-planned and attendees are reminded to be courteous to their neighbors; and
- Recommended approval.

Hope Leja made the following comments:

- Former General Manager for the Cameron Estates CSD;
- Spoke on original Special Use Permit in which the applicants had violated by having more events than what was allowed;
- County was notified of violations, but the public was told that they wouldn't be pursuing any action due to staffing shortage;
- Winery access roads are gated and privately maintained;
- No economic advantage for the County to approve this;
- Petition opposing this project was signed by 174 people;
- Since there were repeated violations of the original Special Use Permit, a revision should not be approved;
- Incompatible use with neighborhood;
- Submitted written statement and petition for Commission's review; and
- Subdivision's roads are privately maintained but publicly funded.

Eva Robertson made the following comments:

- Cameron Estates CSD Board President;
- Real estate attorney and broker;
- This project would be a disclosure item for anyone selling their property;
- Referenced the Staff Memo dated February 23, 2015; and
- Cameron Estates CSD is unable to charge applicants for increased usage of roads.

Paul Stanfel made the following comments:

- In 1980, moved to Cameron Estates;
- Previously, was a member of the Cameron Estates CSD Board;
- Many know that the roads are not up to standard;
- Requested the Commission consider the consequences of approving the project;
- Questioned if the tasting room would be moved to the site;

- Inquired if ABC was aware that alcohol was being served for monetary gain at the applicant's home site;
- Either deny project or direct County staff to bring roads up to standard and maintain them;
- Staff's research originally stated the parcel was not within the CSD, but now is stating that the information was incorrect;
- Definition of a winery is making significant amount of product on-site;
- This is a commercial enterprise;
- Barn is an event center and stating that it is safe would be an exaggeration; and
- Wants to ensure that the Commission is getting correct information.

Barbara Peters made the following comments:

- Bought property 28 years ago because of the rural area;
- Impacted by noise as she is adjacent to the applicants; and
- Didn't move there to have a commercial operation in the neighborhood.

Nancy Overman made the following comments:

- Been there for 35 years;
- Upscale community and can't understand how a commercial operation can be there;
- Neighbors never asked for this;
- In 2013, the applicants advertised weddings at their site; and
- This will affect property values.

Kathie Evans made the following comments:

- In January, submitted written comments;
- In 1998, moved there for the fabulous rural community;
- Applicants fought very hard against a Special Use Permit for a ballpark using the same reasons that the neighbors are using now for this project;
- Weekends should be for relaxation, family time, and homes should be people's sanctuary; and
- This is RE-5 zoning and should not be commercial use.

Karen Guthrie made the following comments:

- 40 years ago moved to the area when there were only 25 residences, now there are 297 residences and 300 lots;
- This is a rural residential area and it is a major decision to bring in commercial property;
- If approved, it will be a major change to all of the residents;
- Those who support and oppose the project all agree that the applicants are nice people and they give good parties;
- Original Special Use Permit and this revision are incompatible with neighborhood and violates the policies the Commission needs to make findings on;
- Existing Special Use Permit was violated, yet they are now asking for a revision;
- This revision is wiping out what couldn't be done in the original Special Use Permit and asking to do more;

- Spoke on findings needed to approve the project;
- Some of the conditions can't be enforced and it requires the residents to be monitors;
- Asked the Commission to exercise their common sense; and
- Requested denial of project and consider revoking the current Special Use Permit for violations.

Dick Pine made the following comments:

- This is a close knit community;
- Project has lots of opposition;
- This is a business venture and it has ramifications;
- Wine tasting is not different from wine drinking; and
- Questioned why the applicants are moving forward with their request when all of their neighbors are against it.

Linda Stanfel made the following comments:

- Has been a resident since 1980;
- Lives approximately one mile away;
- Knows the applicants very well and admires their hard work but is opposed to this request;
- Requested denial and revoke the original Special Use Permit based on repeated actions as they were a hazard and nuisance to the community and the permit sets a precedent;
- Since each owner owns to the middle of the road, if there is an accident in front of one of their homes, they would probably be dragged into litigation and this is a concern if there will be inebriated drivers on the roads;
- A previous guest of the applicants ran off the road and caused property damage;
- This is not compatible with the neighborhood;
- After the Agricultural Commission's meeting, Roger Trout suggested the applicants and neighbors meet, which they did and it was very emotional;
- Applicants are not trust-worthy in staying within the limits with their current Special Use Permit;
- Questioned why the Special Use Permit wasn't revoked due to violations in 2013;
- Inquired why this would be in the best interest of the County;
- Inquired why the benefit to one was going in front of the safety of many; and
- There are still some CC&Rs that have not yet expired but they are sprinkled throughout the neighborhood.

In response to Commissioner Pratt's questions, Ms. Guthrie responded with the following:

- Cameron Estates CSD objected to the original Special Use Permit but had no authority;
- There are three different CC&Rs within the subdivision, they are poorly written, and have expiration dates; and
- Development was created over 50 years ago.

Doug Bonetti made the following comments:

- Moved there 11 years ago for the rural setting;

- In the letters submitted, over 27 residents and 174 petitioners are against this project, with only 4 in support;
- Neighbors feel threatened by this project;
- Special Use Permit was approved for three events, but they did 20 in 2013, which the applicant said was done in accident and that is unacceptable;
- Approving request would jeopardize safety and quality of life for residents;
- Deny request and revoke Special Use Permit;
- At community meeting, they tried to reach a compromise; and
- Although public contacted the County regarding the violations in 2013, nothing was done.

Alan Baracco made the following comments:

- Lives in the direct line of traffic to the applicant's site; and
- Summarized number of events from 2009 to 2014.

Chair Stewart closed public comment.

County Counsel David Livingston made the following comments:

- The roads in question are very unique;
- Spoke on when a CSD is allowed to limit road access;
- Spoke on the Winery Ordinance in regards to roads;
- Spoke on the applicant's ability to contribute more to the CSD;
- Road maintenance is best left to the private agreement between parties;
- Read into the record LAFCO's comments on the road;
- Commission needs to look at this as a land use action; and
- Spoke on revocation process and although it was outside of today's item to take that type of action, the Commission could direct staff to return in order to initiate the revocation process.

Ms. Olivo provided the following rebuttal comments:

- Overwhelmed by the inaccurate comments stated today;
- Provided a summary of events that occurred;
- In 2013, had already exhausted the three Temporary Use Permits allowed per year and moved all events that had not yet sent out invitations to another winery;
- There are a lot of neighbors that are in support of the project and submitted a large aerial map indicating those in support vs. those in opposition;
- Distributed a petition; and
- Accident was actually a relative that had problems with the car's brakes.

Commissioner Shinault made the following comments:

- Everything would need to be brought up to code;
- Perhaps 150 people is too much and 9 events are too high; and
- Maybe more exploration and compromise is needed.

Commissioner Pratt made the following comments:

- For his formula, he uses 3.2 people per vehicle for events;
- Wine tasting is a social event;
- What is affected by the Special Use Permit has tremendous limitations vs. what is allowed by right with the Winery Ordinance and with the RE-5 zoning element, there are other items that need to be addressed;
- 2013 problems were as advertised;
- Was on the Agricultural Commission when it was originally proposed and on the Planning Commission when it came forward;
- Need to prove what's in place before expanding;
- Perhaps baby steps are needed;
- Recommended only 4 events total as community/charity events are more of a challenge and difficult to regulate;
- Four events would give a quarterly event for the wine club;
- Need to make it crystal clear when there are private events;
- Suggest having them return in a year for a review with the community; and
- Everyone had good points on both sides.

Commissioner Heflin made the following comments:

- Very concerned the applicants haven't shown compliance with the original Special Use Permit;
- Wouldn't consider more than 3 events after hearing today's testimony;
- Wants people to do these kind of things but not sure if this is the perfect place for that; and
- Not convinced on the request for expansion at this time.

Chair Stewart made the following comments:

- Clarified the application of the Winery Ordinance on this property;
- Clarified the reason why some Conditions of Approval were shown in strikeout format;
- Inquired on Agricultural Commission's meeting;
- More concerned about this being a RE-5 zoned lot in a community than the road element;
- Referred to the Zoning Ordinance regarding the purpose of RE-5 zoning;
- Doesn't fit with the area and isn't even comfortable with 3 events; and
- Considered it a stretch to even call this a full-fledged winery.

There was no further discussion.

Motion #1

Motion: Commissioner Pratt moved, seconded by Commissioner Shinault, and FAILED (2-2), to take the following actions: 1) Find that the project is Categorically Exempt pursuant to CEQA Sections 15301 and 15303; and 2) Approve Special Use Permit Revision S08-0012-R based on the Findings and subject to the Conditions of Approval as amended: (a) Modify Condition 1 to show four events per year, with no public tasting room; (b) Delete

Condition 9; and (c) Add new Condition requiring applicants return one year after first event.

AYES: Shinault, Pratt
NOES: Heflin, Stewart
RECUSED: Miller

Discussion ensued on wine tasting appointments, amplified music, and the Temporary Use Permit process.

County Counsel Livingston informed the Commission that pursuant to the Commission's bylaws, it required a majority vote of the Commission to take action. If the Commission chose not to take action, then it would be considered a denial and would leave the existing Special Use Permit in effect.

Motion #2

Motion: Commissioner Stewart moved, and FAILED for lack of a second, to keep the existing Special Use Permit with the addition of the paragraph in Condition 1 allowing for wine tasting and the appropriate correction to Condition 2 that is struck out to be adjusted to allow for the wine tasting if it is considered a public event.

County Counsel Livingston confirmed that the lack of action by the Commission would be considered a denial.

Chair Stewart announced that this could be appealed to the Board of Supervisors within 10 working days.